

Department of Permits Approvals and Inspections
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No.89359

Jolanda M & Thomas Robert Stucker
2141 Woodbox Lane Apt. B
Baltimore MD 21209

3 Eastford Court

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE ADMINISTRATIVE LAW JUDGE

This matter came before the Administrative Law Judge on April 6, 2011 for a Hearing on a citation for violations under the Baltimore County Code (BCC). The Respondents were charged with violating section 35-5-209 (A)&(C) of the BCC, concerning the failure to remove mold from the dwelling by a licensed mold remediation company and failure to supply the County with a mold free certificate.

On March 23, 2011, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$8,400.00 (eight thousand four hundred dollars).

The following persons appeared for the Hearing and testified: Anna Dent, Tenant, Albert Berrier, Property Manager, and Jeffrey Radcliffe, Baltimore County Code Enforcement Officer.

The County's case was presented by Code Enforcement Officer Jeffrey Radcliffe, who testified that he visited the property at 3 Eastford Court, and determined that mold was present throughout the living area. Mr. Radcliffe issued a citation to Respondent on March 23, 2011, charging the landlord with violations of the Baltimore County Code concerning mold free dwelling requirements. Mr. Radcliffe re-inspected the property at a later date, and testified that the mold was still present, and three photographs were admitted into evidence which clearly show the presence of mold throughout the residence at 3 Eastford Court.

Ms. Anna Dent, the tenant at 3 Eastford Court, next testified, and stated that she has an infant child in the home with her, and that with the presence of the mold she is fearful for her family's health. As such, Ms. Dent explained that she has given notice to the landlord, and will soon vacate the premises.

Property manager Albert Berrier next testified, on behalf of the legal owners of the property at 3 Eastford Court. Mr. Berrier conceded that there was mold present in Ms. Dent's home, but he advised he was hesitant to open up the walls because he did not know what they might find back there. In addition, Mr. Berrier testified that Ms. Dent's dwelling is part of a condominium regime, and that the owner had been unable to convince the condominium association to repair a leaking roof which, according to Mr. Berrier, is the root cause of the mold problem.

In light of the above, it is beyond dispute that the Respondent is in violation of §35-5-209 of the B.C.C., for failing to provide a mold free residential dwelling to its tenant. The photographs which were admitted and the testimony prove the violation beyond a doubt, and as explained at the hearing, Mr. Berrier's testimony concerning the condominium association is of no relevance to the present case, since a landlord has a non-delegable duty under Maryland law to provide its tenant with a safe and habitable rental unit.

THEREFORE:

IT IS ORDERED by the Administrative Law Judge that a civil penalty be imposed in the amount of \$5,000.00 (five thousand dollars).

IT IS FURTHER ORDERED that \$4,500.00 of the \$5,000.00 civil penalty be suspended, with an immediate \$500.00 fine imposed at this time. If not paid within thirty days, the civil penalty shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the remaining \$4,500.00 will be imposed if the property is not brought into compliance by May 23, 2011. Should the Respondent provide to Baltimore County, on or before May 23, 2011, certification from a licensed mold remediation company, that the premises at 3 Eastford Court is free of mold, the \$4,500.00 suspended penalty will at that time be abated. Prior to abating the \$4,500.00 suspended penalty, Baltimore County Inspector, Jeffrey Radcliffe shall inspect the premises and verify compliance.

ORDERED this 8th day of April 2011

Signed: Original Signed 4/8/11
John E Beverungen
Administrative Law Judge

NOTICE TO RESPONDENT: The Respondent is advised that pursuant to §3-6-301(a) of the Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security in the amount of the penalty assessed.

JEB/jaf